

GABROY LAW OFFICES

170 S. Green Valley Pkwy., Suite 280
Henderson, Nevada 89012
(702) 259-7777 FAX: (702) 259-7704

GABROY LAW OFFICES
Christian Gabroy, Esq. (#8805)
The District at Green Valley Ranch
170 South Green Valley Parkway, Suite 280
Henderson, Nevada 89012
Tel (702) 259-7777
Fax (702) 259-7704

Jesse Sbaih and Associates
Jesse Sbaih, Esq. (#7898)
The District at Green Valley Ranch
170 South Green Valley Pkwy, Suite 280
Henderson, Nevada 89012
Tel (702) 896-2529
Fax (702) 896-0529

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEBRA E. CAMP, individually and on
behalf of all other similarly situated;

Plaintiff,

vs.

FIFTH STREET GAMING, LLC; A
Nevada Limited Liability Company, THE
SIEGEL GROUP NEVADA, INC; A
Nevada Corporation;
EMPLOYEE(S)/AGENT(S) DOES 1-10;
AND ROE CORPORATIONS 11-20,
inclusive;

Defendants.

Case No.
Dept.:

**COMPLAINT
(JURY DEMAND)**

CLASS ACTION COMPLAINT

Plaintiff Debra E. Camp ("Plaintiff" and "Class Representative"), individually and
on behalf of others similarly situated ("the Class"), by and through her attorneys,
Gabroy Law Offices and Jesse Sbaih and Associates, for her Class Action Complaint

1 against Defendant Fifth Street Gaming LLC and Siegel Group Nevada, INC. (collectively
2 "Defendant"), states as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over Plaintiff's WARN Act claim pursuant to 29
5 U.S.C. § 2104(a)(5).

6 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

7 **NATURE OF CLAIMS**

8
9 3. Plaintiff Debra E. Camp, as class representative (the "Class
10 Representative"), brings this lawsuit under the Worker Adjustment and Retraining
11 Notification Act, 29 U.S.C. § 2101 *et seq.* ("WARN Act"), for Defendant's failure to pay
12 her, and other similarly situated persons all lawful wages owed under such statute and
13 for failure to give her, and other similarly situated persons, the required 60 day notice
14 under the WARN Act. Plaintiff demands a jury trial on all issues triable by jury. The true
15 names and capacities, whether individual, corporate or other business entity, of
16 Defendants DOES I-X and ROE corporation I-X are unknown to Plaintiff. Plaintiff is
17 informed and believes and therefore alleges that the Defendant designated herein DOES
18 I-X and ROE corporation I-X were responsible in some manner for the events and
19 happenings herein referred to and damages thereby to the Plaintiff as alleged herein and
20 "Employer(s)" of Plaintiff as that term is defined. Plaintiff will petition this Court to amend
21 this Complaint to insert the true names of each party designated as Doe and/or Roe
22 Defendant when said parties are ascertained.
23
24

25 **THE PARTIES**

26 4. At all material times hereto, Plaintiff was Defendant's "employee," as that
27 term is defined by the WARN Act.
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3

4
5

6
7

8
9
10

11
1213
14

15
16
17
18
19
20
21
22
23
24
25
26

11. Plaintiff is informed and believes that, at a minimum, at least fifty other employees who worked at Defendant's Gold Spike Casino also failed to receive sufficient notice before the respective location was closed and they were laid off/terminated. Combined, these terminated employees comprise the Class.

CLASS ACTION ALLEGATIONS

12. Plaintiff, the Class Representative, and the Class allege and incorporate by reference the allegations in the preceding paragraphs.

13. With respect to the claims brought under the WARN Act, 29 U.S.C. § 2101 *et seq.*, the Class Representative seeks to represent the following class:

those persons who have been employed by Defendant who were not given proper notice of a mass layoff and/or plant closing under the WARN Act (hereinafter "WARN Class").

14. The Class Representative satisfies this definition and therefore seeks certification of this lawsuit as a class action in order that his rights and those of the Class, insufficient notice and any other damages, be resolved.

15. This action is brought pursuant to the class action provisions of Fed. R. Civ. P. 23 because the Class is so numerous that joinder of all Class Members is impracticable. While the precise number of Class Members has not been determined at this time, upon information and belief, Defendant employed over fifty people at all material times hereto who satisfy the Class definition. The Class Representative and the Class Members have been equally affected by Defendant's failure to provide the required notice.

16. Furthermore, those Class members previously employed by Defendant may now be reluctant to raise individual claims for fear of retaliation by Defendant.

1 17. The issues involved in this lawsuit present common questions of law and
2 fact, and these common questions of law and fact predominate over the variations
3 which may exist between members of the class, if any. These common questions of
4 law and fact include, without limitation:

- 5 a) Whether Defendant unlawfully failed to provide sufficient notice in
6 violation of the WARN Act, 29 U.S.C. § 2101 *et seq.*;
7
8 b) The proper measure of damages sustained by the Class
9 Representative and the Class Members.

10 18. The Class Representative, Class Members, and Defendants, have a
11 commonality of interest in the subject matter and remedy sought. The Class
12 Representative is able to fairly and adequately represent and protect the interests of the
13 Class. The Class Representative, like other members of the Class, was subjected to
14 insufficient notice under the WARN Act. Also, the nature and terms of Plaintiff's
15 employment, duties and history with Defendant are typical of the duties of the Class
16 members. Finally, Plaintiff's Counsel is competent and experienced with regard to
17 complex civil litigation (including, but not limited to, class actions).
18

19 19. Individual actions by each member of the class injured or affected would
20 result in a multiplicity of actions, creating a hardship to the Class Members, the Court,
21 and Defendant. The damages suffered by the individual Class members are small
22 compared to the expense and burden of vigorous individual prosecution of this litigation
23 against Defendant. Accordingly, a class action is the superior method for the fair and
24 efficient adjudication of this lawsuit and distribution of the common fund to which the
25 Class is entitled.
26
27
28

COUNT I
(WARN Act Violation - 29 U.S.C. § 2101 et. seq.)

20. Plaintiff repeats and realleges the paragraphs 1-19 above as if fully incorporated herein.

21. Defendant's preceding acts violated the WARN Act, 29 U.S.C. § 2102, in that Defendant failed to give any notice to the affected employees and/or any of the various government agencies to which they were required by law to give notice, in writing, at least 60 days prior to the termination and/or layoffs.

22. Defendant's employees - like Plaintiff - were terminated and/or laid off without the statutorily required 60-day notice are aggrieved and entitled to remedies provided by law.

23. As a direct and proximate result of Defendant's violations, Plaintiff - and others similarly situated have suffered damages to be proven at the time of trial.

24. Plaintiff has retained the services of an attorney to represent her in this action and, as such, is entitled reimbursement for reasonable attorneys' fees and costs.

25. Plaintiff - and others similarly situated - further seek:

- a. Back pay for each employee of Defendant terminated or laid off without 60-day notice pursuant to 29 U.S.C. § 2104(a)(1)(A);
- b. Benefits for each employee pursuant to 29 U.S.C. § 2104(a)(1)(B);
- c. Civil penalties of \$500 per day for each day of the violation pursuant to 29 U.S.C. § 2104(3);
- d. Reasonable attorneys' fees pursuant to 29 U.S.C. § 2104(a)(6);
- e. Costs of the suit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests this Court enter an Order in his favor as

1 follows:

- 2 1. For an award of damages in an amount to be determined at trial;
- 3 2. For attorney's fees, interest, costs; and
- 4 3. For such further relief as the Court may deem just and proper.
- 5

6 Dated this 15th day of April 2013.

7

8 Respectfully submitted,

9 GABROY LAW OFFICES

10 BY: /s/ Christian Gabroy
11 Christian J. Gabroy #8805
12 Gabroy Law Offices
13 170 South Green Valley Pkwy
14 Suite 280
15 Henderson, NV 89012-3145
16 (702) 259-7777
17 christian@gabroy.com

18 JESSE SBaih AND ASSOCIATES

19 By /s/ Jesse Sbaih
20 Jesse Sbaih #7898
21 The District at Green Valley Ranch
22 170 South Green Valley Parkway, Suite 280
23 Henderson, Nevada 89012
24 Tel (702) 896-2529
25 Fax (702) 896-0529

26

27

28

GABROY LAW OFFICES
170 S. Green Valley Pkwy., Suite 280
Henderson, Nevada 89012
(702) 259-7777 FAX: (702) 259-7704